



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

VIA FACSIMILE  
FIRST CLASS MAIL

August 7, 2001

Donna Russo, Esq.  
Cooper, Rose & English, LLP  
480 Morris Avenue  
Summit, New Jersey 07901-1527

RE: Diamond Alkali Superfund Site, Passaic River Study Area  
Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Ms. Russo:

The United States Environmental Protection Agency (EPA) is in receipt of your letter dated August 3, 2001 regarding your client Pfister Chemical, Inc. (Pfister). In your letter you requested nexus information regarding Pfister's relationship to the Site, I respectfully refer you to Fredi Pearlmuter, Esq. of your firm who provided the 104e responses of Alliance Chemical, Inc. (Alliance). In its response, Alliance identified itself as a wholly owned subsidiary of Pfister from 1965 to the present. Alliance's response resulted in EPA's 104e Request for Information to Pfister dated June 21, 2001 requesting information from 1965 to the present.

Pfister also objected to providing EPA with corporate, business and financial information unrelated to hazardous substances. In support of this objection, you cited to United States v. Charles George Trucking Co., 624 F. Supp. 1185 (D. Mass 1986), aff'd 823 F.2d 685 (1<sup>st</sup> Cir. 1987). However, this case was decided prior to the 1986 SARA amendments which took affect on January 1, 1987. The current law gives EPA the authority to request information from any person who has or may have information relevant to any of the following:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel, or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

42 U.S.C. §9604(e)(2).

The other case that was cited in your letter, United States v. Bestfoods, 524 U.S. 51 (1998), dealt with parent corporation liability and not the issue of CERCLA 104e requests for information.

Relevant case law holds that EPA may request information from a parent corporation regarding its relationship to, and ability to pay for, the CERCLA liability of a subsidiary corporation. See United States v. Pretty Products, Inc., 780 F. Supp. 1488, 1506 (S.D. OH 1991). Thus, all of the information that EPA is seeking from Pfister is within the purview of both CERCLA and relevant case law.

Finally, please note that corporate and financial information must be disclosed to EPA, even if the information is considered by Pfister to be confidential. If Pfister would like to make a claim of confidentiality, it must follow the instructions provided in EPA's Request for Information.

EPA looks forward to receiving your 104e response. If you require further information or have questions, you may contact me at 212.637.3106.

Sincerely,

A handwritten signature in cursive script that reads "Kedari Reddy".

Kedari Reddy  
Assistant Regional Counsel

cc: R. Winfield, ERRD

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